

### **REMARKS**

Claims 1, 4-6, 10-13, 31-33, and 35-38 stand rejected. Claims 14-19, 21, 23-25, and 34 are withdrawn. Claims 31 and 37 are amended.

The examiner has objected to claims 31 and 37 based on informalities. The claims have been amended to correct the informalities pursuant to the Examiner's suggestion. Therefore, the applicant respectfully requests that the objection be withdrawn.

Claims 1, 4-6, 10-12, 31-33, and 35-37 are rejected under 35 USC 103(a) as being unpatentable over US 6,426,866 (Jadamus). In the response to arguments section of the February 24<sup>th</sup>, 2010 final office action, the examiner commented that the applicant's arguments were unpersuasive because "the term aromatic polyamide as it is well known in the art refers to polyamides without aliphatic units in the main chain. Therefore, in an aromatic polyamide, the amide groups are all attached to aromatic rings." (Emphasis added.) The examiner provides no support for his statement that it is "well known in the art," and, indeed, his statement runs directly contrary to the express language of the claims and the specification of the present application (see page 3 line 25 through page 4 line 26.).

It is improper to interpret claim language in a manner that will read a limitation out of the claim. Following the examiner's interpretation of the term "aromatic polyamide" would read the "at least 50% of the amide groups are attached to aromatic rings" limitation out of the claims, as every aromatic polyamide would necessarily have 100% of the amide groups attached to aromatic rings. Consequently the examiner's interpretation of the term "aromatic polyamide" is improper.

Furthermore, the examiner appears to be relying on "common knowledge" to support his contention that in an aromatic polyamide every amide group is attached to aromatic rings. The applicant requests the examiner provide Official Notice of this common knowledge, accompanied by support for the examiner's position. Alternatively, the applicant requests reconsideration and withdrawal of the rejection.

Regarding the examiner's rejection of claim 1, as described in the applicant's remarks contained in the communication dated October 20, 2009, the percentage of amide groups attached to aromatic rings as claimed is directed to the chemical structure of the aromatic polyamide rather than to the total amount of aromatic polyamide present. The examiner alleges that, based on Jadamus, it would have been obvious to one of ordinary skill to vary the amount of

aromatic polyamide present in the outer layer in order to optimize barrier properties and strength. While varying the *amount* of aromatic polyamide present in the outer layer would offset these properties, it would not be obvious that varying the *chemical structure* of the aromatic polyamide itself would affect the properties in any predictable manner. Consequently, the chemical structure of the aromatic polyamide is not a result effective variable.

Additionally, there is no reason for modifying Jadamus as suggested by the examiner. Varying the amount of aromatic polyamide in the outer layer would have no impact on the chemical structure of the aromatic polyamide contained within the outer layer. By way of example only, if the outer layer contained 60% aromatic polyamide (which had a chemical structure where 50% of the amide groups are attached to aromatic rings) and the amount of aromatic polyamide in the outer layer was adjusted to 70%, the adjustment would have no affect on the underlying chemical structure of the aromatic polyamide. The claimed feature of “50% of the amide groups are attached to aromatic rings” is directed to the underlying chemical structure of the aromatic polyamide. The suggested modification would not alter the chemical structure of the aromatic polyamide in the outer layer. Prima facie obviousness has not been established because there is no reason to make the proposed modification, and the rejection should be withdrawn.

Further, if it is the Examiner’s contention that the claimed feature of “at least 50% of the amide groups are attached to aromatic rings” is known as a result-effective variable, applicant requests the Examiner to provide a supporting reference on the basis that the cited Jadamus reference does not appear to explicitly support such a conclusion.

Claims 13 and 38 are rejected under 35 USC 103(a) as being unpatentable over Jadamus in view of US 3,538,209 (Hegler). As described above claim 1, and by extension claims 13 and 38, contains the limitation of “an outer layer of aromatic polyamide adjacent the inner layer of aromatic polyamide, where the aromatic polyamide of the inner layer and the outer layer include amide groups and aromatic rings, and at least 50% of the amide groups are attached to aromatic rings.” The chemical structure described in this feature is not obvious over Jadamus. Indeed, Jadamus includes no disclosure as to the chemical structure of the aromatic polyamide. The addition of Hegler is relied on solely to illustrate corrugation in the plastic tubing, and as such does not render the chemical structure obvious. Consequently, Jadamus in view of Hegler does not establish prima facie obviousness of claims 13 and 38, and the rejection should be

withdrawn.

Furthermore the examiner has taken official notice that “it is universally known in the fuel hose art to provide corrugation to the exterior of hoses in order to increase their flexibility.” The applicant contests the Official Notice and requests that the examiner provide support for his position.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance, and a Notice to that effect is earnestly solicited. Applicant believes that no additional fees are necessary, however, the Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey, & Olds for any additional fees or credit the account for any overpayment.

Respectfully Submitted,

**CARLSON, GASKEY & OLDS, P.C.**

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